

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
TIMOTHY REIF and DAVID FRAENKEL, as
Co-Trustees of the LEON FISCHER TRUST
FOR THE LIFE AND WORK OF FRITZ
GRUNBAUM and MILOS VAVRA,

Plaintiffs,

-against-

CARNEGIE INSTITUTE,

Defendant,

An Artwork *PORTRAIT OF A MAN* (1917) by
the Artist Egon Schiele,

Defendant-in-rem.

ANALISA TORRES, District Judge:

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23 Civ. 346 (AT)

ORDER

The Court has reviewed the parties' letters dated March 15 and 22, 2023. ECF Nos. 25, 28. Defendant requests leave to file a motion to dismiss the second amended complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). ECF No. 25. Plaintiffs request that the Court deny Defendant's request and "instead convert the motion to a motion for summary judgment." ECF No. 28 at 1. Defendant also "note[s] that [a] related case . . . *Reif v. Oberlin College*," 23 Civ. 2108, which is before the undersigned, "rais[es] the same issues." ECF No. 25 at 4. Defendant requests that the Court set "one motion to dismiss briefing schedule for both cases." *See id.* Accordingly:


1. Defendant's request to file a motion to dismiss is GRANTED;
2. By **April 27, 2023**, Defendant shall file its motion to dismiss;
3. By **May 18, 2023**, Plaintiffs shall file their opposition; and
4. By **June 1, 2023**, Defendant shall file its reply, if any.

In their briefing, the parties shall address whether Defendant's motion to dismiss should be converted to a motion for summary judgment.

Defendant's request that the Court set one briefing schedule for the two related cases is not properly before the Court. The defendant in 23 Civ. 2108, Oberlin College, has not requested to file a motion to dismiss in accordance with the Court's Individual Practices in Civil Cases. Accordingly, the request is DENIED.

SO ORDERED.

Dated: March 23, 2023
New York, New York


ANALISA TORRES
United States District Judge